"बिजनेस पोस्ट के अन्तर्गत डाक शुल्क के नगद भुगतान (बिना डाक टिकट) के प्रेषण हेतु अनुमत. क्रमांक जी. 2-22-छत्तीसगढ़ गजट/38 सि. से. भिलाई, दिनांक 30-5-2001."

पंजीयन क्रमांक
"छत्तीसगढ़/दुर्ग/09/2012-2015."

छत्तीसगढ़ राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 54] रायपुर, मंगलवार, दिनांक 19 फरवरी 2013—माघ 30, शक 1934

विधि और विधायी कार्य विभाग
मंत्रालय, महानदी भवन, नया रायपुर

रायपुर, दिनांक 19 फरवरी 2013

क्र. 1395/डी. 52/21-अ/प्रा./छ.ग./13.—भारत सरकार, विधि और न्याय मंत्रालय, विधायी विभाग के पत्र क्रमांक 2(2)/13-Leg.I/नई दिल्ली, दिनांक 04-02-2013 के अनुसरण में दि क्रिमिनल लॉ (अमेन्डमेंट) ऑर्डिनेन्स, 2013 (No. 3 of 2013) एतद्द्वारा सर्वसाधारण की जानकारी हेतु पुन: प्रकाशित की जाती है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
के. एल. चरयाणी, अतिरिक्त सचिव.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 3rd February, 2013/Magha 14, 1934 *(Saka)*

THE CRIMINAL LAW (AMENDMENT) ORDINANCE, 2013
No. 3 of 2013

Promulgated by the President in the Sixty-fourth Year of the Republic of India.

An Ordinance further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872.

WHEREAS a Bill further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872 was introduced in the House of the People and referred to the Department related Parliamentary Standing Committee on Home Affairs for examination and report which is pending;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill with certain modifications;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I
PRELIMINARY

Short title and commencement.

1. *(1)* This Ordinance may be called the Criminal Law (Amendment) Ordinance, 2013.

(2) It shall come into force at once.

CHAPTER II

AMENDMENTS TO THE INDIAN PENAL CODE

Amendment of section 100.

2. In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 100, in the clause *Secondly*, after the words "grievous hurt", the words "including the offence of grievous hurt punishable under section 326A" shall be inserted.

45 of 1860.

Insertion of new section 166A.

3. After section 166 of the Penal Code, the following section shall be inserted, namely:—

Public servant disobeying direction under law.

"166A. Whoever, being a public servant,—

(*a*) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or

(*b*) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or

(*c*) fails to record any information given to him under sub-section (*1*) of section 154 of the Code of Criminal Procedure, 1973 and in particular in relation to cognizable offence punishable under section 354, section 354A, section 354B, section 354C, sub-section (*2*) of section 354D, section 376, section 376A, section 376B, section 376C, section 376D or section 376E,

2 of 1974.

shall be punished with imprisonment for a term which may extend to one year or with fine or with both.".

Insertion of new sections 326A and 326B.

4. After section 326 of the Penal Code, the following sections shall be inserted, namely:—

Voluntarily causing grievous hurt by use of acid, etc.

'326A. Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life and with fine which may extend to ten lakh rupees:

Provided that any fine imposed under this section shall be given to the person on whom acid was thrown or to whom acid was administered.

326B. Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

Voluntarily throwing or attempting to throw acid.

Explanation 1.— For the purposes of section 326A and this section, "acid" includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

Explanation 2.— "Permanent or partial damage". includes deformity, or maiming, or burning, or disfiguring, or disabling any part or parts of the body of a person.

Explanation 3.— For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible.'.

5. In section 354 of the Penal Code, for the words "shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both", the words "shall be punished with imprisonment of either description for a term of one year which may extend to five years and shall also be liable to fine" shall be substituted.

Amendment of section 354.

6. After section 354 of the Penal Code, the following sections shall be inserted, namely:—

Insertion of new sections 354A, 354B, 354C and 354D.

Sexual harassment and punishment for sexual harassment.

'354A. (*1*) The following acts or behaviour shall constitute the offence of sexual harassment—

(*i*) physical contact and advances involving unwelcome and explicit sexual overtures; or

(*ii*) a demand or request for sexual favours; or

(*iii*) making sexually coloured remarks; or

(*iv*) forcibly showing pornography; or

(*v*) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

(*2*) Any person who commits the offence specified in clause (*i*) or clause (*ii*) of sub-section (*1*) shall be punished with rigorous imprisonment which may extend to five years, or with fine, or with both.

(*3*) Any person who commits the offence specified in clause (*iii*) or clause (*iv*) or clause (*v*) of sub-section (*1*) shall be punishable with imprisonment of either description that may extend to one year, or with fine, or with both.

Assault or use of criminal force to woman with intent to disrobe.

354B. Whoever assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked in any public place, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and with fine.

Voyeurism.

354C. Whoever watches, or captures the image of, a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Explanation 1.— For the purposes of this section, "private act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy, and where the victim's genitals, buttocks or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the person is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2.— Where the victim consents to the capture of images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

Stalking.

354D. (*1*) Whoever follows a person and contacts, or attempts to contact such person to foster personal interaction repeatedly, despite a clear indication of disinterest by such person, or whoever monitors the use by a person of the internet, email or any other form of electronic communication, or watches or spies on a person in a manner that results in a fear of violence or serious alarm or distress in the mind of such person, or interferes with the mental peace of such person, commits the offence of stalking:

Provided that the course of conduct will not amount to stalking if the person who pursued it shows—

(*i*) that it was pursued for the purpose of preventing or detecting crime and the person accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the state; or

(*ii*) that it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(*iii*) that in the particular circumstances the pursuit of the course of conduct was reasonable.

(*2*) Whoever commits the offence of stalking shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to three years, and shall also be liable to fine.'.

Substitution of new sections 370 and 370A for section 370.

7. For section 370 of the Penal Code, the following sections shall be substituted, namely:—

Trafficking of person.

'370. (*1*) Whoever, for the purpose of exploitation, (*a*) recruits, (*b*) transports, (*c*) harbours, (*d*) transfers, or (*e*) receives, a person or persons, by—

First.— using threats, or

Secondly.— using force, or any other form of coercion, or

Thirdly.— by abduction, or

Fourthly.— by practising fraud, or deception, or

Fifthly.— by abuse of power, or

Sixthly.— by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received,

commits the offence of trafficking.

Explanation 1.— The expression "exploitation" shall include, prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the forced removal of organs.

Explanation 2.— The consent of the victim is immaterial in a determination of the offence of trafficking.

(*2*) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.

(*3*) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

(*4*) Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life.

(*5*) Where the offence involves the trafficking of more than one minor at the same time, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years but which may extend to imprisonment for life.

(*6*) When a public servant including police officer is involved in the trafficking of a minor then such public servant shall be punished with imprisonment for life, which shall mean the remainder of that person's natural life.

(*7*) If a person is convicted of the offence of trafficking of minors, on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life.

Employing of a trafficked person.

370A. (*1*) Whoever, despite knowing, or having reason to believe that a child has been trafficked, employs such child in any form of labour, shall be punished with rigorous imprisonment for a term which shall not be less than five years but which may extend to seven years, and with fine.

(*2*) Whoever, despite knowing or having reason to believe that an adult has been trafficked, employs such adult for labour, shall be punished with rigorous imprisonment for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.'.

Substitution of new sections for sections 375, 376, 376A, 376B, 376C and 376D.

8. For sections 375, 376, 376A, 376B, 376C and 376D of the Penal Code, the following sections shall be substituted, namely:—

Sexual assault.

'375. A person is said to commit "sexual assault" if that person—

(*a*) penetrates his penis, to any extent, into the vagina, mouth urethra or anus of another person or makes the person to do so with him or any other person; or

(*b*) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of another

person or makes the person to do so with him or any other person; or

(*c*) manipulates any part of the body of another person so as to cause penetration into the vagina, urethra, anus or any part of body of such person or makes the person to do so with him or any other person; or

(*d*) applies his mouth to the penis, vagina, anus, urethra of another person or makes such person to do so with him or any other person;

(*e*) touches the vagina, penis, anus or breast of the person or makes the person touch the vagina, penis, anus or breast of that person or any other person,

except where such penetration or touching is carried out for proper hygienic or medical purposes under the circumstances falling under any of the following seven descriptions:—

First.— Against the other person's will.

Secondly. — Without the other person's consent.

Thirdly. — With the other person's consent when such consent has been obtained by putting such other person or any person in whom such other person is interested, in fear of death or of hurt.

Fourthly. — When the person assaulted is a female, with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes to be lawfully married.

Fifthly.— With the consent of the other person when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by that person personally or through another of any stupefying or unwholesome substance, the other person is unable to understand the nature and consequences of that action to which such other person gives consent.

Sixthly. — With or without the other person's consent, when such other person is under eighteen years of age.

Seventhly. — When the person is unable to communicate consent.

Explanation 1.— Penetration to any extent is "penetration" for the purposes of this section.

Explanation 2.— For the purposes of this section, "vagina" shall also include *labia majora*.

Explanation 3.— Consent means an unequivocal voluntary agreement when the person by words, gestures or any form of non-verbal communication, communicates willingness to participate in the specific act:

Provided that, a person who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception.— Sexual intercourse or sexual acts by a man with his own wife, the wife not being under sixteen years of age, is not sexual assault.

Punishment for sexual assault.

376. (*1*) Whoever, except in the cases provided for by sub-section (*2*), commits sexual assault, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years but which may extend to imprisonment for life, and shall also be liable to fine.

(*2*) Whoever,—

(a) being a police officer, commits sexual assault –

(i) within the limits of the police station to which such police officer is appointed; or

(ii) in the premises of any station house; or

(iii) on a person in such police officer's custody or in the custody of a police officer subordinate to such police officer; or

(b) being a public servant, commits sexual assault on a person in such public servant's custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the armed forces is in the area by virtue of deployment by the Central or a State Government, commits sexual assault; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits sexual assault on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits sexual assault on a person in that hospital; or

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards, the person assaulted, commits sexual assault on such person; or

(*g*) commits sexual assault on a woman knowing her to be pregnant; or

(*h*) commits sexual assault on a person when such person is under eighteen years of age; or

(*i*) commits sexual assault, where the person assaulted is incapable of giving consent; or

(*j*) being in a position of economic or social dominance, commits sexual assault on a person under such dominance; or

(*k*) commits sexual assault on a person suffering from mental or physical disability; or

(*l*) while committing sexual assault causes grievous bodily harm or maims or disfigures or endangers the life of a person; or

(*m*) commits persistent sexual assault,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

Explanation 1.— For the purposes of this sub-section,—

(*a*) "women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children;

(*b*) "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

5 of 1861.

(*c*) "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861;

(*d*) "armed forces" means the naval, military and air forces and includes any member of the Armed Forces constituted under any Act for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government.

Explanation 2.— Where a person is subjected to sexual assault by one or more persons in a group of persons acting in furtherance of their common intention, each of the persons in the group shall be deemed to have committed sexual assault within the meaning of this sub-section.

Punishment for causing death or resulting in persistent vegetative state of the victim.

376A. Whoever, commits an offence punishable under sub-section (*1*) or sub-section (*2*) of section 376 and in the course of such commission inflicts an injury which causes the death of the person or causes the person to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean the remainder of that person's natural life, or with death.

Sexual assault by husband upon his wife during separation.

376B. Whoever commits sexual assault on his own wife, who is living separately under a decree of separation or under any custom or usage, without her consent, shall be punished with imprisonment of either description, for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

Sexual intercourse by a person in authority.

376C. Whoever,—

(*a*) being in a position of authority or in a fiduciary relationship; or

(*b*) a public servant; or

(*c*) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or

(*d*) being on the management of a hospital or being on the staff of a hospital,

and abuses such position or fiduciary relationship to induce or seduce any person either in the first mentioned person's custody or under the first mentioned person's charge or present in the premises and has sexual intercourse with that person, such sexual intercourse not amounting to the offence of sexual assault, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years but which may extend to ten years, and shall also be liable to fine.

Explanation 1.— In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses *(a)* to *(c)* of section 375.

Explanation 2. — For the purposes of this section, *Explanations* 1 and 2 to section 375 shall also be applicable.

Explanation 3.— "Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.

Explanation 4.— The expressions "hospital" and "women's or children's institution" shall respectively have the same meaning as in Explanation 1 to sub-section (*2*) of section 376.

Sexual assault by gang.

376D. Where a person is sexually assaulted by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of sexual assault, regardless of gender and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life and shall pay compensation to the victim which shall be reasonable to meet the medical expenses and rehabilitation of the victim.

Explanation.— For the purposes of this section, imprisonment for life shall mean imprisonment for the remainder of that person's natural life.

Punishment for repeat offenders.

376E. Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376C or section 376D and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life, which shall mean the remainder of that person's natural life or with death.'.

Amendment of section 509.

9. In section 509 of the Penal Code, for the words "shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both", the words "shall be punished with simple imprisonment for a term which may extend to three years and shall also be liable to fine" shall be substituted.

CHAPTER III

AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973.

2 of 1974.

Amendment of section 54A.

10. In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 54A, the following proviso shall be inserted, namely:—

"Provided that, if the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that the person is comfortable with:

Provided further, that if the person identifying the person arrested is mentally or physically disabled, the identification process may be videographed.".

Amendment of section 154

11. In section 154 of the Code of Criminal Procedure, in sub-section (*1*), the following provisos shall be inserted, namely:—

"Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 375, section 376, section 376A, section 376B, section 376C, section 376D, section 376E and section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, as far as possible, by a woman police officer and such woman shall be provided legal assistance and also the assistance of a healthcare worker or women's organisation or both:

45 of 1860.

Provided further that—

(*a*) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (*1*) or sub-section (*2*) of section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code is alleged to have been committed or attempted is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of a special educator or an interpreter, as the case may be;

45 of 1860.

(*b*) the recording of such information may be videographed.

(*c*) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (*a*) of sub-section (*5A*) of section 164 as soon as possible.".

Amendment of section 160.

12. In section 160 of the Code of Criminal Procedure, in sub-section (*1*), in the proviso, for the words "under the age of fifteen years or woman", the words "under the age of eighteen years or above the age of sixty-five years or a woman or a physically or mentally disabled person" shall be substituted.

Amendment of section 161.

13. In section 161 of the Code of Criminal Procedure, in sub-section (*3*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 375, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted shall be recorded, as far as possible, by a woman police officer.".

45 of 1860.

Amendment of section 164.

14. In section 164 of the Code of Criminal Procedure, after sub-section (*5*), the following sub-section shall be inserted, namely:—

"(*5A*) (*a*) In cases punishable under section 354, section 354A, section 354B, sub-section (*2*) of section 354C, sub-section (*1*) or sub-section (*2*) of section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code, the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (*5*), as soon as the commission of the offence is brought to the notice of the police:

45 of 1860.

Provided that if the person making the statement is temporarily or permanently physically or mentally disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

Provided further that if the person making the statement is temporarily or permanently physically or mentally disabled, the statement made by the person, with the assistance of an interpreter or special educator, may be videographed;

(*b*) a statement recorded under clause (*a*) of a person who is temporarily or permanently physically or mentally disabled shall be considered a statement in lieu of examination-in-chief, as specified in section 137 of the Indian Evidence Act, 1872 such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial.

1 of 1872.

Insertion of new section 198B.

15. After section 198A of the Code of Criminal Procedure, the following section shall be inserted, namely:—

Cognizance of offence.

"198B. No Court shall take cognizance of an offence under section 376B of the Indian Penal Code where the persons are in a marital relationship, except upon *prima facie* satisfaction of the facts which constitute the offence upon a complaint having been filed or made by the wife against the accused husband.".

45 of 1860.

Amendment of section 273.

16. In section 273 of the Code of Criminal Procedure, before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided that where the evidence of a person below the age of eighteen years who is alleged to have been subjected to sexual assault or any other sexual offence, is to be recorded, the court may take appropriate measures to ensure that such person is not confronted by the accused while at the same time ensuring the right of cross-examination of the accused.".

Amendment of section 327.

17. In section 327 of the Code of Criminal Procedure, in sub-section (*2*), for the words, figures and letters "trial of rape or an offence under

section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code", the words, figures and letters "trial of sexual assault or an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code" shall be substituted.

Amendment of First Schedule.

18. In the First Schedule to the Code of Criminal Procedure, under the heading "1.-OFFENCES UNDER THE INDIAN PENAL CODE",—

(*a*) after the entries relating to section 166, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"166A	Public servant disobeying direction under law	Imprisonment for one year or fine or with both	Non-cognizable	Bailable	Magistrate of the first class";

(*b*) after the entries relating to section 326, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"326A	Voluntarily causing grievous hurt by use of acid, etc.	Imprisonment for not less than ten years but which may extend to imprisonment for life and fine of 10 lakh rupees.	Cognizable	Non-bailable	Court of Session.
326B	Voluntarily throwing or attempting to throw acid.	Imprisonment for five years but which may extend to seven years and fine.	Cognizable	Non-bailable	Court of Session.".

(*c*) for the entries relating to section 354, the following entries shall be substituted, namely:—

1	2	3	4	5	6
"354	Assault or use of criminal force to woman with intent to outrage her modesty.	Imprisonment of 1 year which may extend to 5 years, and with fine.	Cognizable	Non-bailable	Any Magistrate.

354A	(1) Sexual harassment of the nature of unwelcome physical contact and advances or a demand or request for sexual favours.	Imprisonment which may extend to 5 years or with fine or with both.	Cognizable	Non-bailable	Any Magistrate.
	(2) Sexual harassment of the nature of making sexually coloured remark or showing pornography or any other unwelcome physical, verbal or non-verbal conduct of sexual nature.	Imprisonment which may extend to 1 year or with fine or with both.	Non-cognizable	Bailable	Any Magistrate.
354B	Assault or use of criminal force to woman with intent to disrobe.	Imprisonment of not less than 3 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Any Magistrate.
354C	Voyeurism.	Imprisonment of not less than 1 year but which may extend to 3 years and with fine for first conviction.	Non-cognizable	Bailable	Any Magistrate.
		Imprisonment of not less than 3 year but which may extend to 7 years and with fine for second or subsequent conviction.	Cognizable	Non-bailable	Any Magistrate.
354D	Stalking.	Imprisonment of not less than 1 year but which may extend to 3 years and with fine.	Cognizable	Non-bailable	Any Magistrate.".

(*d*) for the entries relating to sections 370, the following entries shall be substituted, namely:—

1	2	3	4	5	6
"370	(1)Trafficking of person.	Imprisonment of not less than 7 years but which may extend to 10 years and with fine.	Cognizable	Non-bailable	Court of Session.
	(2) Trafficking of more than one person.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	(3) Trafficking of a minor.	Imprisonment of not less than 10 years but which may extend to imprisonment for life.	Cognizable	Non-bailable	Court of Session.
	(4) Trafficking of more than one minor.	Imprisonment of not less than 14 years but which may extend to imprisonment for life.	Cognizable	Non-bailable	Court of Session.
	(5) Public servant or a police officer involved in trafficking of minor.	Imprisonment for life which shall mean the remainder of that person's natural life.	Cognizable	Non-bailable	Court of Session.
	(6) Person convicted of offence of trafficking of minor on more than one occasion.	Imprisonment for life which shall mean the remainder of that person's natural life.	Cognizable	Non-bailable	Court of Session.
370A	(1) Employing of a trafficked child.	Imprisonment of not less than 5 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Court of Session.
	(2) Employing of a trafficked adult person.	Imprisonment of not less than 3 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Court of Session.".

(*e*) for the entries relating to sections 376, 376A, 376B, 376C and 376D, the following entries shall be substituted, namely:—

1	2	3	4	5	6
376	(1) Sexual assault.	Rigorous imprisonment of not less than 7 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	(2) Sexual assault by a police officer or a public servant or Member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and sexual assault committed by a person in a position of trust or authority towards the person assaulted or	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.

	by a near relative of the person assaulted.				
376A	Person committing an offence of sexual assault and inflicting injury which causes death or causes the person to be in a persistent vegetative state.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life or with death.	Cognizable	Non-bailable	Court of Session.
376B	Sexual assault by the husband upon his wife during separation.	Imprisonment for not less than 2 years but which may extend to 7 years and with fine.	Cognizable (but only on the complaint of the victim)	Non-bailable	Court of Session.
376C	Sexual intercourse by a person in authority.	Rigorous imprisonment for not less than 5 years but which may extend to 10 years and with fine.	Cognizable	Non-bailable	Court of Session.
376D	Sexual assault by gang.	Rigorous imprisonment for not less than 20 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and compensation to the victim.	Cognizable	Non-bailable	Court of Session.

376E.	Repeat offenders.	Imprisonment for life which shall mean the remainder of that person's natural life or with death.	Cognizable	Non-bailable	Court of Session.".

(*f*) entry relating to section 509, in column 3, for the words "Simple imprisonment for one year, or fine, or both,", the words "Simple imprisonment for 3 years and with fine" shall be substituted.

CHAPTER IV

AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872

1 of 1872.

Insertion of new section 53A.

19. After section 53 of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), the following section shall be inserted, namely:—

45 of 1860.

Evidence of character or previous sexual experience not relevant in certain cases.

"53A. In a prosecution for an offence under section 354, section 354A, section 354B, section 354C, sub-section (*1*) or sub-section (*2*) of section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent.".

Substitution of new section for section 114A.

20. For section 114A of the Evidence Act, the following section shall be substituted, namely:—

Presumption as to absence of consent in certain prosecution for sexual assault.

45 of 1860.

'114A. In a prosecution for sexual assault under clause (*a*), clause (*b*), clause (*c*), clause (*d*), clause (*e*), clause (*f*), clause (*g*), clause (*h*), clause (*i*), clause (*j*), clause (*k*), clause (*l*) or clause (*m*) of sub-section (*2*) of section 376 of the Indian Penal Code, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the other person alleged to have been sexually assaulted and such other person states in that person's evidence before the court that such person did not consent, the court shall presume that such person did not consent.

Explanation.—In this section "[illegible]

by signs; but such writing must be written and the signs made in open Court, evidence so given shall be deemed to be oral evidence:

Provided that if the witness is unable to communicate verbally, the Court shall take the assistance of a special educator or interpreter in recording the statement, and such statement may be videographed.".

Amendment of section 146.

22. In section 146 of the Evidence Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that in a prosecution for an offence under sub-section (*1*) or sub-section (*2*) of section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for proving such consent or the quality of consent.".

45 of 1860.

PRANAB MUKHERJEE,
President.

P. K. MALHOTRA,
Secy. to the Govt. of India.

संचालक, मुद्रण तथा लेखन सामग्री, छत्तीसगढ़ द्वारा शासकीय क्षेत्रीय मुद्रणालय, राजनांदगांव से मुद्रित तथा प्रकाशित—2013.